

ILLINOIS POLLUTION CONTROL BOARD

February 21, 1974

ALL STEEL EQUIPMENT CO.)
PETITIONER)
)
)
v.) PCB 73-544
)
)
ENVIRONMENTAL PROTECTION AGENCY)
RESPONDENT)
)

MR. R. J. CARLSON, CORPORATE OFFICER, in behalf of ALL STEEL EQUIPMENT COMPANY
MS. K. S. NESBURG, DIVISION OF AIR POLLUTION CONTROL, ENVIRONMENTAL PROTECTION AGENCY

OPINION AND ORDER OF THE BOARD (by Mr. Marder)

This action involves a variance request filed on December 20, 1973, by All Steel Equipment Company (Petitioner). Relief is sought from Rule 205 (f) for one year to allow operation of Petitioner's paint spray operation. In its recommendation filed on February 8, 1974, the Environmental Protection Agency recommends a grant subject to certain conditions.

Petitioner owns and operates, in Montgomery, Illinois, a facility for the manufacture of office equipment. The operation in question is the painting lines which consist of six separate emission sources. Petitioner is presently using photochemically reactive solvents in its painting operation, the amounts of which are given as follows:

Total steel parts	17,475.4 lbs/hr
Paint - solids	311.0 lbs/hr
Paint - solvents	577.6 lbs/hr

Theoretically all solvents evaporate into the atmosphere and Petitioner's discharges are thus 577.6 lbs/hr. Rule 205 (f) sets a maximum allowable discharge of eight (8) lbs/hr.

Review of Rule 205 (f): There have been numerous requests from various manufacturers for variance from Rule 205 (f). The logical question is "Why have all users waited until the last minute to file these requests?" To best answer this question a review of the rationale behind the original regulation is in order.

Rule 205 (f) reads as follows:

- (f) Use of Organic Material. No person shall cause or allow the discharge of more than 8 pounds per hour of organic material into the atmosphere from any emission source, except as provided in paragraphs (f) (1) and (f) (2) of this Rule 205 and the following: Exception: If no odor nuisance exists the limitation of this Rule 205 (f) shall apply only to photochemically reactive material.
- (1) Alternative Standard. Emissions of organic material in excess of those permitted by Rule 205 (f) are allowable if such emissions are controlled by one of the following methods:
- (A) flame, thermal or catalytic incineration so as either to reduce such emissions to 10 ppm equivalent methane (molecular weight 16) or less, or to convert 85 per cent of the hydrocarbons to carbon dioxide and water; or,
 - (B) a vapor recovery system which adsorbs and/or absorbs and/or condenses at least 85 per cent of the total uncontrolled organic material that would otherwise be emitted to the atmosphere; or,
 - (C) any other air pollution control equipment approved by the Agency capable of reducing by 85 per cent or more the uncontrolled organic material that would be otherwise emitted to the atmosphere.
- (2) Exceptions. The provisions of Rule 205 (f) shall not apply to:
- (A) the spraying or use of insecticides, herbicides, or other pesticides;
 - (B) fuel combustion emission sources;
 - (C) the application of paving asphalt and pavement marking paint from sunrise to sunset and when air pollution watch, alert or emergency conditions are not declared;
 - (D) any owner, operator, user or manufacturer of paint, varnish, lacquer, coatings or printing ink whose Compliance Program and Project Completion Schedule, as required by Part I of this Chapter, provides for the reduction of organic material used in such process to 20 per cent or less of total volume by May 30, 1975.

In its opinion on The Matter of Emission Standards R-71-23, the Board took notice of the unique problems encountered by facilities engaged in this type of operation. The Board stated in part:

"The sources affected by Rules 205 (e) and (f), however, are neither so certain to be offensive nor so economical to control. Consequently in both paragraphs the emphasis is placed on limiting the use of photochemically reactive material. Where no active odor nuisance is shown,

compliance with these provisions can be achieved by switching to a less reactive substitute, which was a principal means of compliance in Los Angeles and which can be accomplished without significant hardship."

"However, the evidence establishes that for certain industries, such as paint spraying, some printing processes, and dry cleaning with standard solvents, the large volumes of exhaust gas or the low value of the product to be recovered render the costs of control very considerable indeed. Moreover, incineration, the only established emission reduction method in some cases, requires large volumes of scarce natural gas or distillate oil that might be put to good use in reducing particulates and sulphur emissions."

"Consequently, while we will not hesitate to require that such emission controls be undertaken upon a showing that a nuisance exists, we have refrained from requiring them uniformly across the State. In the absence of such a showing a shift to less reactive materials, or to materials such as high solids coatings or inks containing substantially less total organic matter will suffice."

The intent of the above was to allow time to switch to a non-photo-reactive system. In the instant case Petitioner has shown good faith in attempting to do so. The shortages of chemicals and other commodities which have struck the nation in the last year have dealt a severe blow to those who depended on such commodities for their compliance plans.

In making a determination in an action of this type the Board must review not only the regulation, but the rationale behind said regulation. In this case 205 (f) (2) (D) was specifically instituted to allow a user adequate time to formulate a different paint. The answer to the above question then is: Many users have indeed attempted, and many have succeeded, in deriving new formulations. The sudden shortage of needed raw materials has generated their need for a variance - not a lack of good faith. In actions such as this then the Board will look at Petitioner's efforts to comply. In the event that a good faith effort was made, the Board will look favorably upon such a variance request.

It is also important to note that a variance is merely a stopgap, or temporary protection from enforcement. The Regulation (205 [f]) was instituted because emissions of hydrocarbons, if left uncontrolled, do present a danger to the health and well-being of the community. This fact mandates that the Board must require compliance. While a situation beyond Petitioner's control (lack of raw material) is a viable grounds for a temporary variance, it is not grounds for a permanent stay. Users affected by this shortage should be vigorously investigating alternate abatement technology while awaiting the arrival of permissible paint formulations.

Compliance Plan in the Instant Case: In the instant case Petitioner has shown that a good faith effort to comply has been made. Petitioner alleges that they initiated a reformulation program in December of 1972. Said reformulation was accomplished and ready for use in September 1973.

On November 12, 1973, Petitioner informed the Environmental Protection Agency that its compliance plan was in jeopardy because its suppliers could not obtain sufficient non-photochemically reactive solvents. This fact precipitated the instant variance petition. Petitioner can use whatever non-photochemically reactive paint it can secure; however, it will not obtain enough for its operations. Petitioner has told the Agency that it is in the process of investigating alternate compliance methods, but that said investigations are only in the feasibility stage, and a commitment to comply at this time is impossible (Agency Rec. Pg. 2). Agency contacts with Petitioner's suppliers bore out the fact that Petitioner cannot obtain the newly formulated paints, and that the end of the shortage cannot be predicted.

Hardship: Petitioner alleges that forced compliance would mandate a complete shutdown of its facilities. The Board has stated that this is not the case (Forty-Eight Insulations, Inc., v. Environmental Protection Agency, PCB 73-478; E.I. du Pont de Nemours v. Environmental Protection Agency, PCB 73-533). A variance is not equivalent to a shutdown order, but rather a shield from prosecution. However, a shutdown is a possible alternate open to Petitioner, and in this event the following hardship is alleged:

1. The potential layoff of about 2000 persons.
2. Loss of total plant output.

Environmental Impact: The data in this case is sparse. Petitioner alleges that it is not in a position to judge the effects of its emissions. The Agency contends that hydrocarbon emission data in the area have not been taken. The Agency also reports that its investigations have not turned up any complaints from citizens in the area. This information tells the Board only that the emissions do not constitute a nuisance, but nothing about its smog-producing tendencies. If a future variance is requested, more detailed environmental impact data will be required.

Petitioner requests a one-year variance; the Agency recommends six months. The Agency further recommends that a compliance plan be furnished within the above six-months period. A one-year variance will be granted, subject to the order that Petitioner continue to pursue its investigations of alternate technology. This will allow Petitioner ample time to both reevaluate the exempt solvent market and also formulate its plans on alternate technology.

This Opinion constitutes the findings of fact and conclusions of law of the Board.

ORDER

IT IS THE ORDER of the Pollution Control Board that Petitioner be

granted a variance from Rule 205 (f) until February 21, 1975, subject to the following conditions:

1. Petitioner utilize as much exempt solvent formulations as can be furnished by its suppliers.
2. Petitioner shall vigorously pursue its efforts to achieve compliance, and its investigations into alternate technology.
3. Petitioner shall submit monthly progress reports to:

Illinois Environmental Protection Agency
Division of Air Pollution Control
Control Program Coordinator
2200 Churchill Road
Springfield, Illinois 62706

Said reports shall contain:

- a) The usage of exempt and non-exempt formulations during the period.
- b) Steps taken to achieve compliance either by use of exempt solvents or use of alternate technology.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, certify that the above Opinion and Order was adopted by the Board on the 21st day of February, 1974, by a vote of 5 to 0.

Christan L. Moffett